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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,608	05/03/2001	Andrej Gregov	249768044US1	5996

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EXAMINER

HAQ, NAEEM U

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/848,608

Applicant(s)

GREGOV ET AL.

Examiner

Naeem Haq

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 7-23 and 26-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

This action is in response to the Applicants' election of Group I (claims 1-29) and the election of species 2-6 within Group I without traverse. Therefore claims 1-6, 24, and 25 are currently pending and will be considered for examination. All other claims are hereby withdrawn from consideration.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-6 and 25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 1-6 and 25 are not within the technological arts because the steps of defining, subsetting, selecting, and adding can be performed manually and do not require any technology. (*Ex parte Bowman*, 61 USPQ2d, 1665,1671 (Bd. Pat. App. & Inter. 2001)). Although Bowman is not precedential, it has been cited for its analysis.

The Examiner notes that the preamble of claims 1 and 25 recite "computing system" and "web site" respectively. However a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for

completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In the case of claims 1 and 25, the body of these claims does not depend on the preamble for completeness because the steps can be performed independently of a computer system or website.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boucousis (US 2001/0054015 A1).**

Referring to claims 1, 24, and 25, Boucousis teaches a method and program for displaying information about products to an identified user comprising: selecting products for display based upon predicted level of interest to the user and adding information about the selected products to a display (paragraphs [0038] and [0042]-[0045]). Boucousis does not teach defining a range of dates within which the availability dates of new products fall and subsetting an inventory of products having an availability date falling within the defined date range. However, Boucousis teaches that his invention has an item catalogue (Figure 1, item "7") and a listing catalogue (Figure 1, item "9") which users may search by way of querying a searchable database

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(paragraphs [0011], [0038], and [0042]-[0045]). Moreover, Boucousis teaches that the entries within the listing catalogue include information such as "time-frame for availability" (paragraph [0042]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have a user query the database in the invention of Boucousis on the basis of time-frame of availability. One of ordinary skill in the art would have been motivated to do so in order to allow a user to search a database for an item of interest (i.e. new product) as taught by Boucousis. The Examiner also notes that such a query would inherently create a subset of products from the products in the listing catalogue because the purpose of the any query is to filter a set into a smaller subset.

Referring to claims 2-6, Boucousis does not teach a plurality of products from a multiplicity of product categories or ordering a product. However, this limitations are obvious over Boucousis. Boucousis places no restriction on the type of product information a vendor can place in the database. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to organize the products in the database into multiple product categories. One of ordinary skill in the art would have been motivated to do so in order to allow the user to more efficiently search the database in the invention of Boucousis. Furthermore, Boucousis's invention allows buyers and seller to exchange information over a network. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to allow buyers to place an order over the network. One of ordinary skill in the art would

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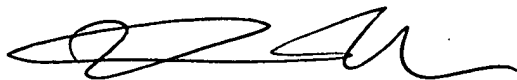
have been motivated to do so in order facilitate a commercial transaction over the network.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (703)-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Naeem Haq**, Patent Examiner  
Art Unit 3625

March 21, 2005

*Nicholas D. Rosen* 3/21/2005  
**NICHOLAS D. ROSEN**  
**PRIMARY EXAMINER**